

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:10-CV-210-FL

TY DUTCHER,

Plaintiff,

v.

KATHRYN EASTBURN; DA CAPO
PRESS, LLC; and PERSEUS BOOKS
INC., d/b/a The Perseus Book Group,

Defendants.

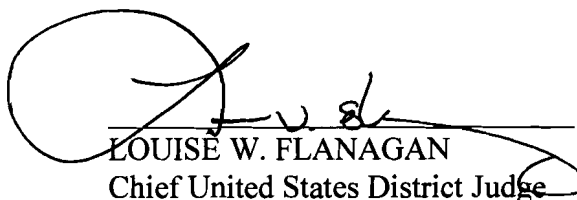
ORDER

This matter comes now before the court upon defendants' motion to compel initial disclosures. The case has been marked by disagreement. Pursuant to Federal Rule of Civil Procedure 26(f), the parties made a good faith attempt earlier to confer and submit a joint discovery plan but were unable to do so. The court undertook a telephonic conference on July 21, 2010, with plaintiff appearing through counsel John Austin and defendants appearing through counsel Eric David. Having failed to agree to a joint plan at conference, plaintiff filed a plan August 6, 2010, and defendants filed a plan August 3, 2010. After reviewing the parties' individual reports and plans and considering the issues raised, the court established a case schedule which included requirement that before any motion to compel discovery is filed, a good faith effort between the parties to resolve the matter was necessary to be shown, and that "[p]rior to any filing, the complaining party shall convene a conference among the parties and this court by telephone through the office of Christa Baker, case manager, at (252) 638-8534."

The court's order on case management also provided that "[i]n the event of a discovery dispute of or relating to written discovery, the party convening the conference shall send via facsimile transmittal directed to the case manager at (252) 638-1529, the submissions in discovery most directly bearing on the particular dispute, for the court's review in advance of telephonic conference." The court provided that any motion to compel filed without advance conference with the court, absent extenuating circumstances, summarily may be denied.

While defendants failed to comply with conference requirements, the motion shows effort to resolve dispute concerning production of initial disclosures with counsel for plaintiff. While not excusing future non-compliance with the court's orders, in this limited instance, **the court finds good cause exists now to order plaintiff's compliance, within fourteen (14) days from date of entry of this order, with his obligations to make initial disclosures as required under the rules in discovery.** Each side is to bear its own costs.

SO ORDERED, this the 4th day of October, 2010.



LOUISE W. FLANAGAN
Chief United States District Judge